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Fifty-sixth session
Item 11 (e) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF RELIGIOUS INTOLERANCE

Written statement submitted by the Association of World Citizens, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31

[20 December 1999]

GE.00-10301 (E)

The ban on the Falun Gong spiritual practice and subsequent government repression

1 The banning of the spiritual practice Falun Gong by the security authorities of the People's Republic of China on 22 July 1999, followed by subsequent widespread repression merits close attention from the Commission on Human Rights as the ban clearly contravenes international law

2 The Ministry of Civil Affairs of the People's Republic of China banned the Research Society of Falun Dafa and Falun Gong practice as "it had not been registered as required by the law and had engaged in illegal activities, advocating superstition and spreading fallacies, hoodwinking people, inciting and creating disturbances and jeopardizing social stability" Then, the Ministry of Public Security issued a notice which "prohibits anyone from hanging up scrolls, pictures, insignias or other signs in any place publicizing Falun Gong No one is allowed to distribute books or other publications, audio-visual material or any other propaganda products in any place" The Ministry also prohibits any practice of Falun Gong such as "gatherings, parades, demonstrations in the form of sit-ins or by appealing to the higher authorities for help" The notice prohibits all activities that "incite disturbances of public order by creating fabrications and distortions of fact, intentionally spreading rumours or by any other means" (China Daily, 23 July 1999)

3 The issue of the ban as a violation of freedom of belief was raised in an oral statement on 4 August 1999 to the Sub-Commission on the Promotion and Protection of Human Rights, the first possible occasion for a full presentation to a United Nations human rights body after the 22 July ban This statement, by the Association of World Citizens, stressed that "We in the human rights community have a duty to uphold the norms set out in universally recognized declarations and covenants We also have a duty to help the Governments of States to find proper solutions when, through fear and bad advice, they take short-sighted measures which are harmful and destructive of social harmony The banning and repression of Falun Gong is one such destructive measure"

4 The 22 July 1999 ban of Falun Gong, without a trial or prior public hearings, is a direct violation of article 18 of the International Convenant on Civil and Political Rights, signed but not yet ratified by China, and of the spirit of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

5 In order to counter criticism that the ban on Falun Gong was not legal under Chinese law, the Chinese Parliament (National People's Congress Standing Committee) passed a law at the end of October to ban and punish cults, it passed by 114 votes for, 2 abstentions, and no votes against The judicial system followed immediately with its interpretation of the law The legislation was hailed in the government media as a "powerful new weapon to smash evil cultist organizations, especially Falun Gong Courts, prosecutors, police, and administrative, judicial departments should be on full alert against cult activities and deal with them rigorously in accordance with the law" (China Daily, 1 November 1999)

6 However, the definition of cult in the new Chinese law is vague and not in keeping with the generally recognized limitations of international human rights law Article 1 (3) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on

Religion or Belief does state that "*Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others*". The Chinese Government has made repeated statements that the Falun Gong is a threat to public order and the health of practitioners and that the ban protects the rights of other citizens. Nevertheless, the trials of Falun Gong practitioners held to date have been under conditions lacking fairness, lacking time for the defence to prepare evidence, and lacking the presence of international observers. Being a menace to "public safety, order, health and morals" can be interpreted very widely if there is no judicial restraint. Thus there is a danger that the Public Security Department forces can strike out arbitrarily at people doing other meditation exercises, or holding spiritual beliefs concerning reincarnation, spirits, energy fields, or cycles of human evolution. Already, other movements and practices have been banned under this legislation. As was intended, the October law has created a general atmosphere of fear and suspicion.

7 Subsequent to the 22 July 1999 ban, there has been a spiral of repression including:

- Widespread arrests and detention without trial;
- Credible reports of torture and other cruel and degrading treatment of Falun Gong practitioners. There seems to be widespread and exceptionally cruel treatment of women Falun Gong practitioners (see Amnesty International, Reports of Torture and ill-treatment of Followers of the Falun Gong, ASA 17/54/99, 22 October 1999);
- Placement of Falun Gong practitioners in "reform through labour" camps under administrative procedures allowing such placement without trial and for an indefinite time period;
- Trials of Falun Gong practitioners under conditions which do not meet internationally recognized standards of judicial fairness or the independence of lawyers and judges;
- The confiscation, burning or other forms of destruction of millions of Falun Gong books, videos and cassette tapes;
- Widespread harassment of Falun Gong practitioners through loss of jobs, housing, and the right to schooling. Such harassment is particularly severe against government civil servants who have practised Falun Gong.

8 Therefore, information on the ban and subsequent repression has been sent for action to the following Special Rapporteurs of the Commission on Human Rights:

- Mr. Abdelfattah Amor, Special Rapporteur on religious intolerance;
- Ms. Radhika Coomaraswamy, Special Rapporteur on violence against women;

- Mr. Param Cumaraswamy, Special Rapporteur on the independence of judges and lawyers,

- Mr. Abid Hussain, Special Rapporteur on freedom of opinion and expression,

- Sir Nigel Rodley, Special Rapporteur on the question of torture,

- Mr. Kapil Silbal, Chairman-Rapporteur of the Working Group on Arbitrary Detention,

- Ms. Katarina Tomasevski, Special Rapporteur on the right to education.

9. Despite different forms of governmental repression, many Falun Gong practitioners have refused to give up their practices. Others have appealed publicly in a non-violent way to the Government for their protection under articles 36, 37 and 38 of the Chinese Constitution as well as invoking international human rights instruments. Practitioners have travelled to Beijing to appeal, including silent protests at Tiananmen Square and in some 30 other cities. Government officials consider such demonstrations as placing them under "siege" and by their count, there have been over 300 "sieges". In response to these non-violent demonstrations, the Chinese security authorities have stepped up their pressure, including the arrest of persons doing the meditation exercises in their homes. As the editorial in the China Daily states "The fight against Falun Gong is a long-term and arduous one. The nature of the cult is heretical, its energy, stubbornness and destructive power all lie in heresy. This is a major political issue that concerns the fate of the nation and the people." (China Daily, 6 November 1999)

10. In opposition to all the heresy hunters, be they governmental or ecclesiastical, the Commission Human Rights - in the name of the international community - should reaffirm that freedom of thought, conscience, religion or belief and the elimination of intolerance and of discrimination based on religion or belief are of a fundamental character and derive from the inherent dignity and worth of the human person. Lifting the 22 July 1999 ban by the Government of the People's Republic of China on the Falun Gong would be an important step in conformity with the provisions and universal values of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

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COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 4 of the provisional agenda

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Written statement submitted by the Association for World Education, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 December 1999]

GE.00-10308 (E)

The 1990 "Cairo Declaration of Human Rights in Islam" (CDHRI) is neither a "regional" instrument nor a United Nations "international instrument"

1. For some time, the Association for World Education has expressed its deep concern in regard to any United Nations body quoting from a religious, non-United Nations "universal instrument", either in a resolution or otherwise - as if it was official. Two examples are noteworthy: Sub-Commission resolution 1998/17, and Sub-Commission resolution 1999/14.

2. Resolution 1998/17, "Situation of women in Afghanistan", affirms that the Sub-Commission is "[f]ully aware that in the Cairo Declaration of Human Rights in Islam, adopted by the Organization of the Islamic Conference in 1990, guarantees the rights of women in all fields". This cannot be affirmed, as this document establishes Sharia law as "the only source of reference" (art. 25) for human rights in Islamic countries, thus giving it supremacy over all the universal international instruments. Regarding the "rights of women", article 6 (a) of the Cairo Declaration merely states: "Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform ...".

3. In resolution 1999/14, "The situation of women and girls in Afghanistan", the Sub-Commission "[a]gain call[ed] upon Muslim religious leaders and scholars to give special attention to the extremely difficult and unprecedented situation of women in Afghanistan, and to use their authority and their knowledge with a view to bringing the policies and practices of the Taliban into line with the true spirit of Islam and the principles of human rights and fundamental freedoms". This appeal is perfectly legitimate, but the Sub-Commission had already interpreted article 6 (a) of the Cairo Declaration relating to women in its resolution 1998/17.

4. We have pointed out that the 1990 "Cairo Declaration of Human Rights in Islam" had been published by OHCHR in its *Human Rights: A Compilation of International Instruments. Volume II: Regional Instruments*. Geneva, December 1997 (volume I, Parts I and II, contain the *Universal Instruments*). A year after our first inquiry as to how this inclusion could have occurred, we are still awaiting an explanation as to when, why, and by whom such an important decision was officially made by OHCHR or by another United Nations body.

5. It is all the more difficult to understand how CDHRI was published in such a compilation (being the final document in volume II, under section E. "Organization of the Islamic Conference"), because OIC is not a "regional" body and CDHRI cannot correctly be defined as a "regional instrument": it is a religious instrument, which is considered by its authors as "universal".

6. We wish to highlight one example of the confusion that may occur in the future as a result of this ambiguity. At the tenth anniversary commemoration of the Convention on the Rights of the Child, in round table I: Translating law into reality, we raised the question of the relevance of the 1990 CDHRI in regard to the Convention - whether a State party should evoke it, in accordance with the principle of article 27 of the Vienna Convention on the Law of Treaties. We believe that this is apposite, particularly as CDHRI appears in the *Compilation of International Instruments* and it may be translated in subsequent editions, or reprinted.

7. In the Guide to the discussion under *Legislative review* of the Convention, item 6, *Other legal instruments*, there is direct mention of the status of such international instruments and the extent to which the Committee could or should refer to them in a systematic fashion. Any discussion should differentiate between: (a) *United Nations human rights treaties*; (b) *regional* human rights treaties; (c) *other United Nations system international* treaties ...; (d) *other international* treaties ...; (e) *other United Nations documents* ...; (f) *other non-United Nations documents* ...". (our emphasis)

8. The 1993 Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights encouraged (in Part II, para. 5) "States to consider limiting the extent of any reservations they lodge to *international human rights instruments* ..." (our emphasis)

9. We believe that examples can be multiplied and that further confusion might arise in the future (in relation to the forthcoming Year of Dialogue and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001), if the status quo concerning the inclusion of CDHRI in volume II of *Human Rights: A Compilation of International Instruments* is not rapidly resolved. Many people and United Nations bodies may be led astray, erroneously considering CDHRI to be an "international instrument" or a "regional instrument", whereas it is neither.

10. The 1990 CDHRI is a specific religious document that is totally "subject to the Islamic Sharia" (art. 24) which "is the only source of reference for the explanation or clarification of this Declaration" (art. 25). In fact, CDHRI makes it very clear that Sharia law has supremacy, and CDHRI has primacy - in the view of its authors - over other international instruments. (See E/CN.4/1992/SR.20, paras. 17-20)

11. Our position would be identical if any future edition of the *Compilation of International Instruments* would contain, in its volume II (Regional Instruments), a rabbinical "Jerusalem Declaration of Human Rights in Judaism", a Catholic "Rome Declaration of Human Rights in Catholicism", a Protestant "Geneva Declaration of Human Rights in Protestantism", etc.

12. The principal aim of the Universal Declaration of Human Rights was to create a framework for a world society that needs some universal codes based on mutual consent in order to function. It is their universal character that makes them a common base for relations between peoples across national and cultural frontiers. The United Nations - and especially the Office of the High Commissioner for Human Rights - should stand resolutely behind the international community's common goal of universality, so clearly enshrined in the International Bill of Rights, and in the other relevant international instruments.

13. The Association for World Education calls on the Commission on Human Rights, the High Commissioner for Human Rights, and all other competent United Nations authorities to examine carefully what should be done to rectify the anomalous inclusion of "Section E. Organization of the Islamic Conference. 49. The OIC's Resolution No. 49/19-P on the Cairo Declaration of Human Rights in Islam; 50. The CDHRI, adopted at Cairo on 5 August 1990" in *A Compilation of International Instruments, Volume II. Regional Instruments* (pp. 474-85). We have already addressed relevant documentation to the chairpersons of the various treaty bodies

and to members of the Sub-Commission. We feel that this matter should be discussed in May 2000 at the next meeting of the special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme.

14. The Association for World Education proposes that in all further reprintings of the English edition of volume II - and in any envisaged translations - section E should be omitted. Alternatively, the Office of the High Commissioner should provide an explanation and a legal justification for the retention of an essentially religious document in a volume purporting to contain regional and international United Nations instruments on human rights.